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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/562,154 | 12/23/2005 | Snjezana Boger | 016906-0459 | 6580 |
| 23428 7590 02/23/2011 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007 | | | | |
| EXAMINER | | | | |
| SHEVIN, MARK L | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1733 | | | | |
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| 02/23/2011 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/562,154

Applicant(s)

BOGER ET AL.

Examiner

MARK L. SHEVIN

Art Unit

1733

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 14 February 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See below: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Mark L. Shevin/

/George Wyszomierski/
Primary Examiner
Art Unit 1733

Applicants assert (p.2, paras 3-4) that Peng does not disclose or suggest claim 1 as Peng is not a flux but a bonding material with the disclosed nanopowder of Peng designed to melt and Peng does not disclose that the flux contains the nanopowder material. In response, the distinction of an active bonding agent vs a brazing flux only relates to the final and later use of the two products, not the instant composition as claimed. Peng discloses a mixture (Peng: p. 6, lines 6-13) of a non-corrosion flux, binder, and nanoparticles, thus the nanoparticles are considered to be mixed into the flux.

Applicants assert (p. 3, para 2) that Ishii does not disclose or suggest a flux comprising nanoparticles containing aggregates. In response, the nanoparticles containing aggregates flow as present from a combination of Peng and Ishii as explained in the previous Office action of October 14th, 2010. Ishii is relevant to Peng as both are drawn to coating of surfaces with mixture containing nanoparticles.

Applicants assert (p. 3, paras 2-3) that one of ordinary skill in the art would not have reasonably expected the flux of Peng and Ishii to possess the claimed nanoaggregates dispersed in an organic polymer because Peng and Ishii do not disclose nanoaggregates and Peng and Ishii are not fluxes. In response, in this case the Examiner asserts that the PTO has shown a sound basis for believing that the products of the Applicant and the prior art of the same due to substantial similarities in base organic polymer, flux composition, nanoparticle content, oxide nanoparticles, and polymer content and Applicants have the burden of showing that the prior art products do not necessarily or inherently possess the claimed characteristics.

Applicants assert (p. 4, paras 1 and 2) that Englert does not teach or suggest the claimed flux or remedy the deficiencies of Peng and Ishii and that it would not have been obvious to modify the nanopowder of Peng by the teaching of Ishii or Englert in view of the different aims of Peng and Ishii. In response, Englert is used to teach the composition of the flux as Peng did not disclose the composition of his flux. It would have been obvious to modify Peng's nanoparticles to include the silica nanoparticles of Ishii taught that silica nanoparticles allow the formation of hydrophilic coatings.

Applicants assert (p. 4, para 4-5) that claims 27-31 should not have been withdrawn as the features of claims 27-31 are not limited to any of species listed in the election of species requirement dated October 23, 2008.

In response, Applicants elected species without traverse in the response filed December 19th, 2008 and thus cannot revisit this issue at this time.